

Defendant.

**DECLARATION OF BRIAN  
D. CAPLAN IN RESPONSE  
TO DEFENDANT'S  
MOTION FOR  
EXTENSION OF TIME TO  
OBTAIN COUNSEL TO  
FILE PLEADINGS AND  
MOTIONS**

4. This Complaint was filed shortly thereafter, on August 15, 2008.

5. By letter dated August 19, 2008, I wrote to Defendant's transactional attorney, Theodore Sedlmayer, advising him that this action had been brought, and requesting that he advise me as to whom Defendant had retained to represent him in this action. While I had one telephone conversation with Mr. Sedlmayer concerning my client's claims against Defendant, he did not otherwise respond to that letter. My partner, Jonathan Ross, then sent Mr. Sedlmayer a follow up letter dated September 25, 2008, advising him that Defendant had been served, and reiterating our request to be advised as to who would be representing Defendant in this action. Copies of these letters are annexed hereto as Exhibits 1 & 2, respectively.

6. As noted in Mr. Ross' letter, on August 30, 2008, the Summons and Complaint in this action were personally served on Defendant at the Freedom Hill Amphitheatre in Sterling Heights, Michigan, where he was performing that night. A copy of the sworn Affidavit of Service of the process server, is annexed hereto as Exhibit 3.

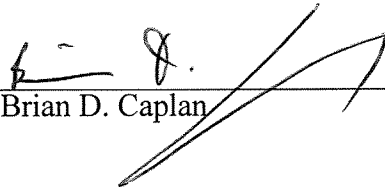
7. On October 15, 2008, Defendant served the instant motion, together with a motion to dismiss or transfer. Plaintiff will be filing separate opposition papers to that motion.

8. Defendant's motion papers do not dispute that he appeared at a concert at Freedom Hill Amphitheatre on August 30th or that he matches the description of Defendant contained in the Affidavit of Service.

9. While we do not oppose Defendant being granted a reasonable extension of time to obtain litigation counsel, I respectfully note that he and his representatives have been aware of this action since August, and Defendant assuredly has the wherewithal to obtain counsel expeditiously. Accordingly, we respectfully submit that a deadline of November 3, 2008 (one week before the scheduled date for the initial conference in this action) is appropriate.

WHEREFORE, it is respectfully requested, that Defendant be ordered to obtain counsel by no later than November 3, 2008.

Dated: October 24, 2008  
New York, New York

  
\_\_\_\_\_  
Brian D. Caplan

# EXHIBIT 1

**CAPLAN & ROSS, LLP**

Brian D. Caplan  
Jonathan J. Ross

100 PARK AVENUE, 18<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10017

TEL: 212.973.2376  
FAX: 212.661.4290

www.caplanross.com

Nicole L. Mondschein †

OF COUNSEL  
Joseph Einstein

† Also admitted in Florida

Brian D. Caplan  
Direct: 212.973.2377  
bcaplan@caplanross.com

August 19, 2008

**VIA FAX:** (212) 925-0554

Theodore Sedlmayer, Esq.  
Sedlmayer & Associates  
200 Park Avenue South  
New York, NY 10003

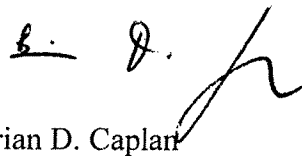
**Re: Vlad Lyubovny v. William Leonard Roberts II p/k/a "Rick Ross" 08  
Civ. 7252 (Judge Gardepha)**

Dear Mr. Sedlmayer:

We are the attorneys for Vlad Lyubovny, p/k/a DJ Vlad, the plaintiff in the above action against Rick Ross. We understand that you are Rick Ross' transactional attorney. Please let us know when and whom your client retains as a lawyer to defend him in this action. In the interim, please be so kind as to advise your client that he is obligated to preserve any evidence that comes into his possession relating to the alleged assault on August 10 which is the subject of the above action. We are informed that a number of amateur and professional videographers are peddling videotapes of the incident. Should Rick Ross, or any persons acting on his behalf, acquire the same please instruct him not to destroy such material.

Thank you for your anticipated cooperation.

Sincerely yours,



Brian D. Caplan

# Message Confirmation Report

Date/Time : AUG-19-2008 16:49 TUE  
 Fax Number :  
 Fax Name :  
 Model Name : 1815dn

| No. | Name/Number | StartTime   | Time   | Mode | Page    | Result |
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## CAPLAN & ROSS, LLP

100 Park Avenue, 18th Floor  
 New York, New York 10017-3363  
 Tel: 212.973.2376  
 Fax: 212.661.4290

| RECIPIENT                | COMPANY                | FAX NO.      | PHONE NO. |
|--------------------------|------------------------|--------------|-----------|
| Theodore Sedlmayer, Esq. | Sedlmayer & Associates | 212.925.0554 |           |

FROM: Brian Caplan DATE: August 19, 2008  
 PHONE: (212) 973-2377 CLIENT/MATTER #: Vlad Lyubovny

Total number of pages including this page: 2.  
 If you do not receive all the pages, please call 212.973.2376

### ATTENTION RECIPIENT:

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE. MY NUMBER IS (212) 973-2376.

PLEASE FORWARD THE ATTACHED TO THE APPROPRIATE PERSON IN YOUR FIRM AS SOON AS POSSIBLE.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY-CLIENT PRIVILEGED AND/OR OTHERWISE CONFIDENTIAL. INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE.

## EXHIBIT 2

**CAPLAN & ROSS, LLP**

100 PARK AVENUE, 18<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10017

TEL: 212.973.2376

FAX: 212.661.4290

www.caplanross.com

Brian D. Caplan  
Jonathan J. Ross

Nicole L. Mondschein †

OF COUNSEL

Joseph Einstein

† Also admitted in Florida

Jonathan J. Ross  
Direct: 212.973.2378  
jross@caplanross.com

September 25, 2008

**VIA FIRST CLASS MAIL**

Theodore Sedlmayr, Esq.  
Sedlmayr & Associates  
200 Park Avenue South  
New York, NY 10003

**RE: Vlad Lyubovny v. William Leonard Roberts II p/k/a "Rick Ross"**  
**08 Civ. 7252 (Judge Gardephe)**

Dear Mr. Sedlmayr:

As you know, we are attorneys for plaintiff in the action referenced above. I understand that you are Rick Ross' transactional attorney. Since your prior conversation regarding this action with Brian Caplan, personal service of the summons and complaint upon Mr. Ross occurred on August 30, 2008 at his concert performance at the Freedom Hill Amphitheatre in Michigan that night. The Court has now scheduled a November 10 conference date in the action, and I enclose a copy of the Notice of Pre-Trial conference issued by the Court and a copy of the Judge's individual Rules of Practice. Please note that we continue to await your advice as to whom your client has retained to represent him in this action, as previously requested in Mr. Caplan's August 19, 2008 letter to you.

Sincerely,



Jonathan J. Ross

Enclosure

cc: Honorable Paul G. Gardephe, U.S.D.J.



**EXHIBIT 3**

AO 440 (Rev. 8/01) Summons in a Civil Action

| RETURN OF SERVICE   |   |              |
|---|---|--------------|
| Service of the Summons and complaint was made by me <sup>(1)</sup>  | DATE<br><div style="text-align: right; font-size: 1.2em;">8/30/08      8:35pm</div> |              |
| NAME OF SERVER (PRINT)<br><i>Jonathan P. Wore</i>   | TITLE<br><i>Process Server</i>  |              |
| Check one box below to indicate appropriate method of service   |   |              |
| <input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: <i>Freedom Hill</i><br><br><input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.<br><div style="margin-left: 40px;"><i>sterling high, MI</i></div> <div style="margin-left: 40px;">Name of person with whom the summons and complaint were left:</div> <input type="checkbox"/> Returned unexecuted:   |   |              |
| <input checked="" type="checkbox"/> Other (specify): <i>personally delivered upon William Leonard Roberts II</i><br><i>P/K/A Rick Ross 6'11" 280lbs - 300lbs African American</i><br><i>I AM FAMILIAR WITH RICK ROSS AS I AM A FAN OF HIS!</i>  |   |              |
| STATEMENT OF SERVICE FEES   |   |              |
| TRAVEL  | SERVICES  | TOTAL \$0.00 |
| DECLARATION OF SERVER   |   |              |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <u>8/30/08</u>      <u><i>Jonathan P. Wore</i></u><br/> <div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> <span>Date</span> <span>Signature of Server</span> </div> <div style="text-align: center; margin-top: 20px;"> <u>25140 Lakser Rd #C141 Southfield, MI</u><br/>             Address of Server           </div> <div style="text-align: right; margin-top: 10px;"><i>43033</i></div> </p> |   |              |

AProx  
30-3  
YES

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**CERTIFICATE OF SERVICE**

I, Nicole L. Mondschein, hereby certify that on October 24, 2008, I caused to be served a true and correct copy of the within Declaration of Brian D. Caplan in Response to Defendant's Motion for Extension of Time to Obtain Counsel to File Pleadings and Motions, by First Class Mail, upon the following:

William Leonard Roberts II  
1750 Northwest 193<sup>rd</sup> Street  
Opa Locka, Florida 33056  
Defendant, *Pro Se*

Dated: October 24, 2008  
New York, New York

  
\_\_\_\_\_  
Nicole L. Mondschein (NM 5610)